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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,038	06/30/2000	Tetsuro Yoshioka		1110

7590 01/12/2007  
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EXAMINER

AIRAPETIAN, MILA

ART UNIT PAPER NUMBER

3625

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/12/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/608,038	YOSHIOKA, TETSURO	
	Examiner	Art Unit	
	Mila Airapetian	3625	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3 and 6-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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**DETAILED ACTION**

***Response to Amendment***

Amendment received on 10/20/06 is acknowledged and entered. Claims 2, 4, 5, 19 have been cancelled. Claims 1, 3, 6-18 are currently pending in the application.

**DETAILED ACTION**

***Response to Amendment***

Applicant's amendment received on 03/28/2006 is acknowledged and entered. The applicant has amended claims 1, 10, 15, and cancelled claims 2, 4, 5 and 19. Currently, claims 1, 3, 6-18 are pending for examination.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 3, 6 – 10, 12 – 13 and 15 - 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittsche (US 6,556,975 B1) in view of Cronin (US 2001/00321145 A1), further in view of Burg et al. (US 6,456,699), and further in view of Reyda et al. (US 2002/0002501).**

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Regarding claim 1 and related claims 10 and 15, Wittsche teaches a community system for organizing and establishing a headquarter for business transactions over a network, comprising; at least one headquarter network server; a plurality of community store servers, each corresponding to a different community store and connected with the at least one headquarter network server by a network; and a plurality of member servers, each corresponding to a different member terminal and connected with the at least one headquarter network server by the network; wherein the at least one headquarter network server includes, a merchandise information memory data that include information for goods sold by the community stores, as well as goods not available at one of the franchise stores, but available at the headquarter, and that a home page data memory system to collect additional home page data for the home page of each community store, the home page creation system also accessing a community store identification (m) system, a home page sending service that sends home page data from the home page of each community store to at least one member/customer service, including information from the merchandise information memory data and, sends predetermined guest home page data when a member server accessing the Franchise System does not match any community store, an order receiving system that processes orders from the plurality of member terminals through the home pages of each community store, a received data transfer system that transfers order data received by the order receiving system to the at least one headquarter network server to one of the community servers according to the community store ID system, the order data including a buyer name and goods ordered (see at least Abstract, Col 3, lines 54 – 67, Col 4, lines 1 – 3, Col 6, lines 65 – 67, Col 8, lines 1 – 5 and

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21 – 41, Col 10, lines 18 – 20 and Figures 1 – 3); (Col 5, lines 30 – 34 and lines 52 – 56, Col 7, lines 10 – 13, Col 9, lines 48 – 49, Col 11, lines 2- 6 and Figures 2 and 3). In turn, the order/purchase receiving system and process these orders of items selected in the merchant's store (Abstract, Col 5, lines 12 – 34 and Figure 5).

Although Wittsche does disclose matching the customer/person orders to appropriate online stores, the reference does not specifically disclose and teach a franchise store system for predetermined members and matching a franchise store to a person ordering via a member terminal when the person accesses the franchise system, the franchise store (ID) system matching franchise stores to the person accessing the franchise system based on the uniform resource locator values set up in advance according to predetermined rules.

On the other hand and in the same area of online commerce, Cronin teaches an ecommerce system store In system matches a store to a person ordering via a member terminal when the person accesses the system, the store II) system matching stores to the person accessing the system based on uniform resource locator values set up in advance according to predetermined rules (see at least Abstract and Para 0039).

Please note in claim 10 that the phrase "sold by the plurality of franchise stores, such goods including goods available at a particular franchise store and not available at the particular franchise store but available at a

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headquarter" are considered to be non functional descriptive material, since the information data is not processed in any way – just stored and transmitted. The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant's invention from Wittsche. Thereby, the non-fictional descriptive material is directed only to the content of the data and does not affect either the structure or method/process of Wittsche, which leaves the method and system unchanged (see MPEP 2106). Moreover and with regard to the terminal ID, these ID are known as "cookies" were old and well known at the time of the Applicant's invention and thereby the Examiner takes Official Notice. Terminal ID's (i.e. cookies) were both old and well known and frequently used in on line systems to match the individuals terminal to a data base of registered members and these cookies were used in online systems to allow entry as well track the member selections.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the system of Wittsche with the system of Cronin to have enabled a system franchise system for organizing and establishing a headquarter for business transactions over a network, comprising; at least one headquarter network server; a plurality of franchise store servers, each corresponding to a different franchise store and connected with the at least one headquarter network server by a network; and a plurality of

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member servers, each corresponding to a different member terminal and connected with the at least one headquarter network server by the network; wherein the at least one headquarter network server includes, a merchandise information memory data that include information for goods sold by the franchise stores, a home page creation system that accesses the merchandise information memory data for merchandise information to create a home page of each franchise store, and that a home page data memory system to collect additional home page data for the home page of each franchise store, the home page creation system also accessing a franchise store identification (m) system, a home page sending service that sends home page data for the home page of each franchise store to at least one predetermined member service, including information from the merchandise information memory data, an order receiving system that processes orders from the plurality of member terminals through the home pages of each franchise store, a received data transfer system that transfers order data received by the order receiving system from the at least one headquarter network server to one of the franchise servers according to the franchise store system, the order data including a buyer name and goods ordered (See at least Abstract and Figures 1 – 3). Cronin discloses an ecommerce system in system matches a store to a person ordering via a member terminal when the person accesses the ecommerce system, the store ID system matching stores to the person accessing the ecommerce system based on uniform resource locator values set up in advance according to predetermined rules (see at least Col 5, lines 28 - 39). Therefore, one of ordinary skill in the art would have been motivated to extend the system of Wittsche with a system for an ecommerce system store in system matches a franchise store to a person

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ordering via a member terminal when the person accesses the ecommerce system, the store II) system matching stores to the person accessing the franchise system based on uniform resource locator values set up in advance according to predetermined rules. In this manner, the member will be accessing the appropriate site with which they are affiliated and the purchases will be credited to the appropriate distributor/store.

Wittsche does not teach the uniform resource locator values include a first portion unique to each franchise store and a second portion common to all franchise stores and the headquarters.

Cronin teaches an ecommerce system, wherein the uniform resource locator value includes first portion unique to each store and second portion common to all franchise stores and the headquarters (Para 0004 and Para 0014). Moreover and please note a URL specifies the protocol to be used in accessing the resources, the name of the server on which the resource resides (such as *//www.whitehouse.gov*), and, *optionally, the path to a resource (such as an HTML document or a file on that server)*. A URL may uniquely identify a specific file or image on a particular logical or physical server. By definition, a URL/Uniform Resource Locator already includes what applicant refers to as a *"unique compound address"* and a *"subaddress"*, i.e., identifier(s) after a domain name that uniquely identify the path to a resource such as a file or document. For example in this case, the subaddress could have been the global address for the headquarter server.



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The combination of Wittsche and Cronin also does not teach a home page *creation system* that accesses the merchandise information memory data for merchandise information to create a home page of each franchise/community store.

Burg et al. (hereinafter Burg) teaches an ecommerce system wherein the system creates a home page (col. 9, lines 15-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wittsche and Cronin to include a home page creation system that accesses the merchandise information memory data for merchandise information to create a home page of each franchise/community store, as disclosed in Burg, because it would advantageously allow customers / visitors to access basic information about all the retail stores, their locations, products/services provided without physically visiting those stores, thereby increasing customer service.

While Wittsche teaches communities within the on-line mall, he does not explicitly teach that said communities include franchise stores.

Reyda teaches an ecommerce store wherein the retailers are franchised and/or independently owned and/or independently operated [0025].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wittsche, Cronin and Burg to include that said communities include franchise stores, as disclosed in Reyda, because it would advantageously allow to offer

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well known brand names of goods and/or services, which would attract more customers, thereby increasing revenue.

The phrase that "wherein: the merchandise information memory data further includes information - for goods not available at one of the franchise stores, but available at the headquarter" is considered to be non-functional descriptive material. The phrase in this claim is considered to be non-functional descriptive material. The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant's invention from Wittsche. Thereby, the non-fictional descriptive material is directed only to the content of the data (i.e. memory data further includes.....information) and does not affect either the structure or method/process of Wittsche, which leaves the method and system unchanged (see MPEP 2106). While the applicant argues that storing of the specific information is a patentable distinction, it is not. This is an apparatus/system claim and the type or kind of information/data "stored" as well as "transmitted" does not provide patentable distinction as long as the reference discloses or would suggest to one of ordinary skill in the art the necessary structure such as memory (see Wittsche Figure 1).

Regarding claim 3, Wittsche teaches a franchise system, wherein the network includes the Internet (Figure 1).

Regarding claim 12, 13, 18 and 19, Cronin teaches an ecommerce system, wherein the uniform resource locator value includes first portion unique to each store and second portion common to all franchise stores and the headquarters (Para 0004 and Para 0014). Moreover and please note a URL specifies the protocol to be used in accessing the resources, the name of the server on which the resource resides (such as *//www.whitehouse.gov*), and, *optionally, the path to a resource (such as an HTML document or a file on that server)*. A URL may uniquely identify a specific file or image on a particular logical or physical server. By definition, a URL/Uniform Resource Locator already includes what applicant refers to as a “*unique compound address*” and a “*subaddress*”, i.e., identifier(s) after a domain name that uniquely identify the path to a resource such as a file or document. For example in this case, the subaddress could have been the global address for the headquarter server.

Regarding claim 6, Cronin teaches an online commerce system, wherein: the at least one headquarter network server further includes a member entry data base that identifies previously accessing members and matches said members to a predetermined store according to said member entry data (Para 0016 and 0030).

Regarding claims 7, 8 and 9, the recitations that “ wherein: the member entry data base includes member entries comprising a member identification (ID) value, a

password, a franchise store code, and a terminal identification (ID) code”, “ wherein: at least a portion of the member ID value includes at least a portion of the store code” and “wherein: at least a portion of the password includes at least a portion of the store” such recitations are given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other “identifies” already disclosed by Cronin. Cronin discloses the structure of a database (Para 0017), which is well known to one of ordinary skill being capable of storing information/data. Moreover, the phrases words in these claims are considered to be non-functional descriptive material, which is stored information/data and is not processed in any fashion. The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant’s invention from Cronin. Thereby, the non-fictional descriptive material is directed only to the content of the data and does not affect either the structure or method/process of Cronin, which leaves the method and system unchanged (MPEP 2106).

Regarding claim 16, Cronin teaches an electronic shopping system, wherein: said member data further includes a terminal (ID) value associated with a remote user terminal () and regarding claim 17, wherein: the franchise store identification ID system checks for a terminal ID value for an accessing user, and determines that access is not

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cite where the franchise store ID system match the ID with that of member data (Para 0030).

**Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Wittsche, Cronin, Burg and Reyda, as applied to claims 1 and 10 above, and further in view of Anuff (US 6,327,628 B1).**

The combination of Wittsche, Cronin, Burg and Reyda disclose and teach substantially the applicant's invention.

However, the combination does not specifically disclose and teach the claim recitations for a sending a guest page.

On the other hand and regarding claim 11, Anuff teaches a franchise system wherein, the home page service sends a predetermined guest page data when a member server accessing the Franchise system does not match any franchise store (see at least Col 13, lines 39 – 44).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have provided the combination of Wittsche and Cronin with the system of Anuff which sends a predetermined guest page data when a member server accessing the Franchise system does not match any franchise store. The combination of Wittsche

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and Cronin disclose and teach the claim limitations recited in claim 1 and 10. In turn, Anuff discloses a system for wherein, the home page service sends a predetermined guest page data when a member server accessing the Franchise system does not match any franchise store (see at least Col 13, lines 39 – 44). Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Wittsche and Cronin with a system wherein, the home page service sends a predetermined guest page data when a member server accessing the Franchise system does not match any franchise store.

**Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Wittsche, Cronin, Burg and Reyda, as applied to claim 10 above, and further in view of Spagna (US 6,587,837 B1).**

The combination of Wittsche, Cronin, Burg and Reyda substantially teach the applicant's invention.

However, the combination does not specifically disclose and teach an electronic franchise shopping system, wherein: the at least one headquarter network server further includes a clearance system that executes copyright clearance procedures on behalf of a franchise store for good ordered through the web page of the franchise store.

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On the other hand and regarding claim 14 (New), Spagna teaches an electronic franchise shopping system, wherein: the at least one headquarter network server further includes a clearance system that executes copyright clearance procedures on behalf of a franchise store for good ordered through the web page of the franchise store (Col 4, lines 26 – 29).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Wittsche and Cronin with the system of Spagna for a electronic franchise shopping system in order that the at least one headquarter network server further includes a clearance system that executes copyright clearance procedures on behalf of a franchise store for good ordered through the web page of the franchise store. The combination of Wittsche and Cronin disclose a franchise system that included, servers for member/customers, franchise stores/affiliates and headquarter/central server, which includes merchandise, home page creation/sending system as well as order receiving and processing, plus a franchise store ID system. Spagna discloses a an electronic franchise shopping system, wherein: the at least one headquarter network server further includes a clearance system that executes copyright clearance procedures on behalf of a franchise store for good ordered through the web page of the franchise store (Col 4, lines 26 – 29). Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Wittsche and Cronin with a system for an electronic franchise shopping system, wherein: the at least one headquarter network server further includes a clearance system that executes copyright

clearance procedures on behalf of a franchise store for good ordered through the web page of the franchise store.

### ***Response to Arguments***

Applicant's arguments filed 10/20/06 have been fully considered but they are not persuasive.

In response to the applicant's argument that information as to: "merchandise information memory data that includes..., goods not available at one of the franchise stores but available at the headquarter" is functional data, it is noted that MPEP 2106 (C) states: "Language that suggests or makes optional but does not require steps to be performed or *does not limit a claim to a particular structure* does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses."

In this case, claim 1 includes the following language: at least one headquarter network server; ... a plurality of franchise store servers; ...wherein the at least one headquarter network server includes, a merchandise information memory data that includes information for goods sold by the franchise stores, as well as goods not



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available at one of the franchise stores, but available at the headquarter;...". There is not indication in the claim that said server *is configured* to access said information and manipulate said information to produce desired data. All what the claim language states is the intended use of said system, and adds nothing to the patentability or substance of the claim.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, all references relate to method of conducting online commerce. The motivation to combine Wittsche and Cronin to add that the system matches stores to the person accessing the franchise system based on uniform resource locator values set up in advance according to predetermined rules would be to credit purchases made by said users to the appropriate distributor/store.

The motivation to combine Wittsche and Cronin with Burg et al. to include a home page creation system accessing the merchandise information memory data for merchandise information to create a home page of each franchise/community store, would

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be to allow customers to access basic information about all the retail stores, their locations, products/services provided without physically visiting those stores, thereby increasing customer service.

The motivation to combine Wittsche, Cronin, Burg et al. with Reyda to include that said communities include franchise stores would be potentially increasing revenue by offering well known brand names of goods and/or services.

The remaining applicant's arguments essentially repeat the arguments presented above; therefore, the responses presented by the examiner above are equally applicable to the remaining applicant's arguments.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning communication or earlier communications from the examiner should be directed to Mila Airapetian whose telephone number is (571) 272-3202. The examiner can normally be reached on Monday-Friday 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MA

  
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